



Washington, Saturday, December 11, 1937

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

**ORLAND IRRIGATION PROJECT, CALIFORNIA
PUBLIC NOTICE OF ANNUAL WATER CHARGES¹**

OCTOBER 29, 1937.

1. Annual operation and maintenance charges.—The annual operation and maintenance charge for the irrigation season of 1938, and thereafter until further notice, against all lands of the Orland project, California, under public notice, shall be a minimum charge of one dollar and eighty cents (\$1.80) per irrigable acre whether water is used thereon or not, which charge will permit the delivery of not to exceed 3 acre-feet of water per acre; and additional water, up to the amount of the surplus natural flow water used prior to the time it becomes necessary to draw upon any storage water, will be furnished at the rate of ten (10) cents per acre-foot and further additional water at the rate of forty (40) cents per acre-foot.

2. *Time of payment.*—The minimum charge announced above will be due and payable on or before December 31, 1937, and no water will be delivered until it is paid. Charges for additional water will become due and payable on December 31 following the irrigation season. All charges are subject to the penalties prescribed by subsection H of section 4 of the act of December 5, 1924 (43 Stat. 701) if not paid on or before the due dates stated above. The same terms of payment will apply to further irrigation seasons unless subsequently modified.

3. Method of billing and payment.—All charges will be billed direct to the water users and will be payable by them to the Bureau of Reclamation, Orland, California.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 37-3592; Filed December 10, 1937; 9:34 a. m.]

National Bituminous Coal Commission.

[Order No. 112]

AN ORDER DETERMINING AND ESTABLISHING INITIAL CLASSIFICATIONS OF COALS OF CODE MEMBERS WITHIN DISTRICT NUMBER 15 AS PROVIDED BY COMMISSION'S ORDERS NO. 38 AND NO. 43, AND SECTION 4, PART II, SUBSECTION (A) OF THE BITUMINOUS COAL ACT OF 1937

The National Bituminous Coal Commission having by its Orders No. 38 and No. 43² directed all District Boards to propose to the Commission initial classifications of coals of

¹ Act of June 17, 1902, 32 Stat., 388, as amended or supplemented.
² F. R. 1688, 2149 (D).

code members within their respective districts in conformity with the standards, methods of applying such standards, and rules of procedure prescribed by the Commission in said orders; the Bituminous Coal Producers Board for District Number 15 having proposed to the Commission initial classifications of coals of code members and a hearing having been held thereon; and Bituminous Coal Producers Board for District Number 15 having submitted evidence at such hearing showing compliance with the standards of classifications of coals, methods of applying such standards, and rules of procedure, as prescribed by the Commission in its Orders No. 38 and No. 43; and, the Commission having given due consideration to the proposed initial classifications of coals by Bituminous Coal Producers Board for District Number 15 and to other evidence and pertinent data relating to the classifications of coals for District Number 15:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the classifications of coals of code members for District Number 15, set out preceding the names of code members and their respective mines as the same appear in the Schedule of Initial Classifications of Coals of Code Members within District Number 15, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, shall be and hereby are determined and established as the initial classifications of coals for code members within the said District Number 15 and such classifications shall be effective until further order of this Commission.

2. That all proceedings for reclassifications of coals shall be made and conducted in conformity with the provisions of Order No. 38, as amended by Order No. 43, and all proceedings for additional initial classifications shall be had in conformity with orders now in effect or hereafter issued.

3. That nothing herein contained shall affect any proceeding now pending before District Board Number 15 or the Commission involving a revision of the initial classifications of coals of any code member.

That the Secretary of the Commission shall forthwith mail copies of this order and Schedule of Initial Classifications of Coals for Code Members within District Number 15 to the Consumers' Counsel, the Secretary of Bituminous Coal Producers Board for District Number 15 and to code members within said district, and shall cause to be published a copy of this order in the **FEDERAL REGISTER**.

By order of the Commission.

Dated this 9th day of December, 1937.

[SEAL]

F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 37-3594; Filed, December 10, 1937; 10:01 a. m.]



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[Order No. 113]

AN ORDER ESTABLISHING MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NUMBER FOURTEEN IN CONFORMITY WITH SECTION 4, PART II, SUBSECTIONS (A) AND (B) OF THE BITUMINOUS COAL ACT OF 1937

The National Bituminous Coal Commission having established in each of the districts under its jurisdiction, as an agency of the Commission, a Statistical Bureau, and having

directed by its Order Number 15¹ producers of bituminous coal to file therewith cost data for the calendar year 1936; the District Boards having been organized pursuant to Section 4, Part I (a), of the Act, and such District Boards having, from cost data submitted by the Statistical Bureau for their respective districts, determined, pursuant to Order Number 56² of the Commission, the weighted average of the total costs of the ascertainable tonnage produced in their respective districts in the calendar year 1936 and having adjusted the average costs so determined, as was necessary to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, so as to reflect as accurately as possible any change or changes which had been established since January 1, 1936, and having submitted to the Commission such determinations and the computations upon which they were based; the Commission having thereupon determined by its Order Number 66³ the weighted average of the total costs of the tonnage for Minimum Price Area Four in the calendar year 1936, adjusted as aforesaid, and having transmitted the same to the several District Boards in such Minimum Price Area; each District Board in a Minimum Price Area having proposed minimum prices free on board transportation facilities at the mines for the kinds, qualities, and sizes of coal produced in their respective districts, and classifications of coals and price variations as to mines, consuming market areas, values as to uses and seasonal demand, said prices having been proposed so as to yield a return per net ton for each district, equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of such Minimum Price Area, such total costs computed as provided by subsection (a), Part II, Section 4, of the Act, the minimum prices having been proposed on tentative weighted average costs, with later adjustments thereof to reflect the actual adjusted weighted average costs; the Commission having by its Order Number 102⁴ determined and established the initial classifications of coals of code members within said District Number Fourteen; the District Board for District Number Fourteen having coordinated in common consuming market areas with other districts upon a fair competitive basis the said proposed minimum prices and having submitted to the Commission such coordinated prices and the data upon which they were predicated; the Commission having accepted the minimum prices as proposed and coordinated by said District Board and having in certain respects modified same, and having determined the common consuming market areas to be as set forth in the attached Schedule of Minimum Prices for Coals of Code Members Produced within District Number Fourteen, hereinafter referred to; the said District Board Number Fourteen in coordinating the said proposed minimum prices and the Commission in modifying the same, having taken into account, among other factors, the various kinds, qualities, and sizes of coal, and transportation charges upon coal, and the said District Board and the Commission having conformed to the standards that such prices (a) be just and equitable as between producers within each district, (b) do not permit dumping, (c) be just and equitable and not unduly prejudicial or preferential, as between and among districts, (d) reflect, as nearly as possible, the relative market values, at points of delivery in each common consuming market area, of the various kinds, qualities, and sizes of coals produced in the various districts, taking into account values as to uses, seasonal demand, transportation methods and charges and their effect upon a reasonable opportunity to compete on a fair basis, and the competitive relationships between coal and other forms of fuel and energy, (e) preserve, as nearly as may be, existing fair competitive opportunities, and (f) have due regard for the interests of the consuming public; and

The Commission having determined that the minimum prices so coordinated do not, as to District Number Fourteen

¹ 2 F. R. 1477 (DI).

² 2 F. R. 2573 (DI).

³ 2 F. R. 2873 (DI).

⁴ 2 F. R. 3098 (DI).

or any other district with which prices were so coordinated, reduce or increase the return per net ton upon all the coal produced within any of such districts below or above the minimum return as provided in subsection (a), Part II, Section 4, of the Act, by an amount greater than necessary to accomplish such coordination, and that the return per net ton upon the entire tonnage of the Minimum Price Area in which any such district is located, at such prices as coordinated, will approximate the weighted average of the total cost per net ton of the tonnage of such Minimum Price Area.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number Fourteen, set opposite the names of code members and their respective mines, as the same appear in the Schedule of Minimum Prices for Coals of Code Members Produced within District Number Fourteen, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, shall be and hereby are determined and established as the minimum prices of coals of code members within the said District Number Fourteen, and such minimum prices shall be and become effective at 12:01 o'clock A. M. on the 27th day of December, 1937.

2. That any code member or District Board or member thereof, or any State or political subdivision of a State, or the Consumers' Counsel who shall be dissatisfied with the coordination of prices or by any minimum price established, may at any time after this date make complaint by petition to the Commission, pursuant to Section 4, Part II (d), and in conformity with the Commission's Rules of Practice and Procedure, and the Commission shall after notice and hearing make such further order as may be required to effectuate the purpose of subsection (b) of Part II of Section 4 of the Act. Pending final disposition of such petition and upon reasonable showing of necessity therefor, the Commission may at any time make such preliminary or temporary order as in its judgment may be appropriate, and not inconsistent with the provisions of the Act.

3. That the Secretary of the Commission shall forthwith mail copies of this order and Schedule of Minimum Prices for Coals of Code Members Produced within District Number Fourteen to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers Boards for the districts within Minimum Price Area Four and to code members within District Number Fourteen, shall cause copies of this order and said Schedule and copies of the Commission's Rules of Practice and Procedure to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission, and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 9th day of December, 1937.

[SEAL] F. WITCHER McCULLOUGH, Secretary.

PRICE SCHEDULE No. 1—DISTRICT No. 14

Schedule of Minimum Prices for Coals of Code Members Produced within District No. 14, Established Pursuant to the Provisions of the "Bituminous Coal Act of 1937."

Effective: 12:01 a. m., December 27, 1937.

Issued December 10, 1937.

F. W. McCULLOUGH, Secretary.

PRICE INSTRUCTIONS AND EXCEPTIONS

1. The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by Code Members in the District shown on the title page hereof.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

4. All prices herein are per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines unless otherwise designated.

5. When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 15 cents per net ton shall be made.

6. *Crushed coal.*—Where any coal is crushed the minimum price therefore shall be the minimum price established for the original size, before crushing, plus five cents per net ton.

7. Twenty-five cents per net ton extra shall be charged for all coal hand loaded into box cars.

SUBSTITUTION CLAUSE

The substitution on any order of a grade or size of coal taking a minimum price higher than the grade or size ordered is not authorized or permitted.

Size Groups—For Shipment Into All Market Areas

Size group number	Designation	Sizes	
		Through ¹	Over ¹
1	Lump	3"	
2	Lump	2½"	
3	Grate	8½"	4"
4	Furnace	8½"	2"
5	Egg	6"	2"
6	Stove	4"	1½"
7	No. 4 Nut	2½"	1½"
8	No. 1 Nut	1½"	¾"
9	Pea	1"	¾"
10	Nut Run (Slack)	2½"	0"
11	Slack	1½"	0"
12	Slack	¾"	0"
13	Mine Run		
14	Shelly Lump (8 only)		
15	Smithing Coal		
16	Smithing Coal Sacked		

¹ All maximum screened sizes mentioned herein are based on round hole or the equivalent thereof.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the higher size group and priced accordingly.

Price Index

GROUP 1

Name of code member	Coal seam	Location of mine
Bernice Anthracite Coal Co.	Lower Hartshorne	Russellville, Arkansas
Keeton & Anderson Coal Company	Lower Hartshorne	Russellville, Arkansas
New Deal Coal Company	Lower Hartshorne	Russellville, Arkansas
Arkansas Anthracite Coal Co.	Lower Hartshorne	Russellville, Arkansas

GROUP 2

Blue Blaze Coal Company	Lower Hartshorne	Clarksville, Arkansas
Collier Dunlap Coal Company	Lower Hartshorne	Clarksville, Arkansas
Fernwood Coal Mining Company	Lower Hartshorne	Clarksville, Arkansas
Ra-Ja-Da Anthracite Company	Lower Hartshorne	Clarksville, Arkansas
Smokeless Coal Company, Inc.	Lower Hartshorne	Clarksville, Arkansas
Harding Coal Company	Lower Hartshorne	Clarksville, Arkansas
Diamond Anthracite Coal Co.	Lower Hartshorne	Clarksville, Arkansas
Jamestown Mining Company	Lower Hartshorne	Clarksville, Arkansas
Sterling Coal Company	Lower Hartshorne	Clarksville, Arkansas
D. A. McKinney Coal Company	Lower Hartshorne	Clarksville, Arkansas

GROUP 3-A

Eureka Coal Company	McAlester	Paris, Arkansas
Jewel Mining Company	McAlester	Paris, Arkansas
Paris Purity Coal Company	McAlester	Paris, Arkansas
New Superfuel Coal Company	McAlester	Paris, Arkansas
Dixie Fuel Company	McAlester	Paris, Arkansas
New Shockley Coal Company	McAlester	Paris, Arkansas
New Union Coal Company	McAlester	Paris, Arkansas
Sullivan Coal Company	McAlester	Paris, Arkansas
Mack Coal Company	McAlester	Paris, Arkansas
Watson Coal Company	McAlester	Paris, Arkansas
Carbon Coal Company #1	McAlester	Paris, Arkansas
Johnson & Green Coal Company	McAlester	Paris, Arkansas
Quality Coal Company (Altus)	Lower Hartshorne	Altus, Arkansas

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Price Index—Continued

GROUP 3-B

Name of code member	Coal seam	Location of mine
Carbon Coal Company #2.	McAlester.	Paris, Arkansas.
K. & S. Coal Co.—less 25¢.	Lower Hartshorne.	Prairie View, Arkansas.
Liberty Coal Company.	Lower Hartshorne.	Altus, Arkansas.
A. & M. Coal Company.	McAlester.	Paris, Arkansas.
Ideal Coal Company.	McAlester.	Paris, Arkansas.
Blue Star Coal Company.	Lower Hartshorne.	Altix, Arkansas.
R. H. Smith Coal Company.	Lower Hartshorne.	Altus, Arkansas.
Black Diamond Coal Company. ¹	Lower Hartshorne.	Altus, Arkansas.
Stewart Coal Company (L. S.) ¹	Lower Hartshorne.	Altus, Arkansas.

¹ Stewart Coal Company, Group 3-B—(L. S.) indicates lower seam.

GROUP 3-C

Victor Coal Company.	McAlester.	Paris, Arkansas.
Economy Coal Company.	McAlester.	Paris, Arkansas.

GROUP 3-D

O. C. Pickartz Coal Company.	McAlester.	Ozark, Arkansas.
Robert Thompson Coal Company.	McAlester.	Ozark, Arkansas.
Green Coal Company.	McAlester.	Ozark, Arkansas.
Jeff Grigg Coal Company.	McAlester.	Ozark, Arkansas.
S. W. Smith Coal Company.	McAlester.	Ozark, Arkansas.

GROUP 4-A

Excelsior Mining Corporation.	Upper Hartshorne.	Excelsior, Arkansas.
Excelsior Smokeless Coal Co.	Upper Hartshorne.	Excelsior, Arkansas.
Eastern Excelsior Coal Company.	Upper Hartshorne.	Excelsior, Arkansas.

GROUP 4-B

Sun Smokeless Coal Company.	Upper Hartshorne.	Excelsior, Arkansas.
Boyd Excelsior Operating Co.	Upper Hartshorne.	Excelsior, Arkansas.
Quality Coal Company #2.	Upper Hartshorne.	Excelsior, Arkansas.

GROUP 4-C

Boyd-Sicard Coal Company.	Upper Hartshorne.	Excelsior, Arkansas.
Hackett Excelsior Coal Co.	Upper Hartshorne.	Excelsior, Arkansas.

GROUP 4-D

Arkansas Excelsior Coal Co.	Upper Hartshorne.	Excelsior, Arkansas.
Excelsior Thin Vein Coal Co.	Upper Hartshorne.	Excelsior, Arkansas.

GROUP 4-E

Sublett Coal Company.	Upper Hartshorne.	Excelsior, Arkansas.
Meilmier Mining Company.	Upper Hartshorne.	Excelsior, Arkansas.
Oliver-McQuire Coal Company.	Upper Hartshorne.	Excelsior, Arkansas.
Excelsior Valley Coal Corp.	Upper Hartshorne.	Excelsior, Arkansas.
New Excelsior Coal Company.	Upper Hartshorne.	Excelsior, Arkansas.

GROUP 5-A

Bates Mining Company.	Lower Hartshorne.	Bates, Arkansas.
Acme Semi Anth. Coal Company.	Lower Hartshorne.	Bates, Arkansas.
Leflore Poteau Coal Company.	Panama.	Poteau, Oklahoma.
Royal Smokeless Coal Company.	Panama.	Poteau, Oklahoma.
Quality Coal Company.	Panama.	Poteau, Oklahoma.
J. F. Turnipseed Coal Co.'s, Nos. 1, 2, and 3.	Panama.	Poteau, Oklahoma.
Dane Coal Company.	Panama.	Poteau, Oklahoma.
Black Diamond Coal Company.	Panama.	Poteau, Oklahoma.
Pioneer Coal Company.	Panama.	Poteau, Oklahoma.
A. D. Clark Coal Company.	Upper Hartshorne.	Panama, Oklahoma.
Buck Creek Coal Mining Co.	Upper Hartshorne.	Panama, Oklahoma.
Keener Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.
Gillie Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.

GROUP 5-B

Little Ben Coal Company.	Lower Hartshorne.	Midland, Arkansas.
Midland Coal Mining Company.	Lower Hartshorne.	Midland, Arkansas.
Great Western Coal Company.	Lower Hartshorne.	Bonanza, Arkansas.
R. A. Young & Son Coal Co.	Lower Hartshorne.	Jenny Lind, Arkansas.

Price Index—Continued

GROUP 6-A

Name of code member	Coal seam	Location of mine
Premium Smokeless Coal Co.	Lower Hartshorne.	Bokoshe, Oklahoma.
Banner Mining Company.	Lower Hartshorne.	Bokoshe, Oklahoma.

GROUP 6-B

Sans Bois Coal Company.	Lower Hartshorne.	McCurtain, Oklahoma.
Jackson Coal Company.	Upper Hartshorne.	Midland, Arkansas.

GROUP 7-A

Sam Harlan Coal Company.	McAlester.	Paris, Arkansas.
Coaldale Smokeless Coal Co.	Lower Hartshorne.	Coaldale, Arkansas.
Fort Smith-Bonanza Coal Co. #135.	Lower Hartshorne.	Bonanza, Arkansas.
Pete Martindale Coal Company.	McAlester.	Paris, Arkansas.
Royal Superior Coal Mining Company (solid shot).	Lower Hartshorne.	Heavener, Oklahoma.
Russell-Greyton Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.
Braun & Son Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.
Eastern Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.
S. A. R. Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.
Bell Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.
Lewis Coal Company.	Lower Hartshorne.	Bokoshe, Oklahoma.
Meyers Coal Company.	Lower Hartshorne.	Coal Hill, Arkansas.
Acme Coal Company.	Upper Hartshorne.	Denning, Arkansas.
Stewart Coal Company (U. S.) ¹ .	Lower Hartshorne.	Bokoshe, Oklahoma.
C. W. Bevel Coal Company.	McAlester.	Paris, Arkansas.
R. J. Moore Coal Company.	McAlester.	Paris, Arkansas.
R. B. Turner Coal Company.	McAlester.	Paris, Arkansas.
Blake Timmons Coal Company.	McAlester.	Paris, Arkansas.
Bill Koch Coal Company.	McAlester.	Paris, Arkansas.
J. H. Canady Coal Company.	McAlester.	Paris, Arkansas.
Robert Cooper Coal Company.	McAlester.	Paris, Arkansas.
R. B. Scott Coal Company.	McAlester.	Paris, Arkansas.
A. D. Clark Coal Company #2.	Lower Hartshorne.	Tahona, Oklahoma.

¹ Stewart Coal Company, Group 7-A—(U. S.) indicates upper seam.

GROUP 7-B

Lee Elder Coal Company.	Lower Hartshorne.	Heavener, Oklahoma.
Dawes Bros. Coal Company.	Lower Hartshorne.	Howe, Oklahoma.
North Milton Coal Company.	Lower Hartshorne.	Milton, Oklahoma.
Sugar Creek Coal Company.	Panama.	Heavener, Oklahoma.

GROUP 7-C

Spessard & Henry Coal Company.	Lower Hartshorne.	Huntington, Arkansas.
John Turner Coal Company.	Lower Hartshorne.	Huntington, Arkansas.
Jink Jones Coal Company.	Lower Hartshorne.	Huntington, Arkansas.
Penny Freeman Coal Company.	Lower Hartshorne.	Huntington, Arkansas.
White-Bates Coal Company.	Lower Hartshorne.	Hartford, Arkansas.
Couch Coal Company.	Lower Hartshorne.	Hartford, Arkansas.
Thompson & Dupont Coal Company.	Lower Hartshorne.	Hartford, Arkansas.
A. M. Hobbs Coal Company.	Lower Hartshorne.	Hartford, Arkansas.
M. J. Hobbs & Son Coal Company.	Lower Hartshorne.	Midland, Arkansas.
Hunter Coal Company.	Lower Hartshorne.	Hartford, Arkansas.
Lewis & Rush Coal Company.	Lower Hartshorne.	Midland, Arkansas.
Leo Bach Coal Company.	Lower Hartshorne.	Hartford, Arkansas.
W. H. Meilmier Coal Company.	Lower Hartshorne.	Montreal, Arkansas.
Bill Burch Coal Company.	Lower Hartshorne.	Jenny Lind, Arkansas.
Petty & McClain Coal Company.	Lower Hartshorne.	Midland, Arkansas.
J. B. McKnown Coal Company.	Lower Hartshorne.	Huntington, Arkansas.
Looper Coal Company.	Lower Hartshorne.	Huntington, Arkansas.
Weaver & Knaulz Coal Company.	Lower Hartshorne.	Huntington, Arkansas.
P. P. Bennett Coal Company.	Lower Hartshorne.	Jenny Lind, Arkansas.
Fort Smith-Bonanza Coal Co. #1.	Lower Hartshorne.	Bonanza, Arkansas.
Fort Smith-Bonanza Coal Co. #2.	Lower Hartshorne.	Bonanza, Arkansas.
Clay Coal Company.	Lower Hartshorne.	Jenny Lind, Arkansas.
John B. Mumey Coal Company.	Lower Hartshorne.	Jenny Lind, Arkansas.
Little Three Coal Company.	Lower Hartshorne.	Jenny Lind, Arkansas.
S. A. McAdoo Coal Company.	Lower Hartshorne.	Barling, Arkansas.

GROUP 8

Charleston Coal Company.	Charleston.	Charleston, Arkansas.
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GROUP 9

Geo. McAlpine Coal Company.	McAlester.	Stigler, Oklahoma.
Kanima Smithing Company.	McAlester.	Stigler, Oklahoma.
Midway Coal Company.	McAlester.	Stigler, Oklahoma.

Prices in Cents per Net Ton of 2,000 Pounds for Shipment Into All Market Areas, Size Group

Mine	Group	Over 3"	2½"	Grate	Furnace	Egg	Stove	Nut no. 4	Nut no. 1	Buckwheat-Pea	Nut-Run	Slack	Slack	Mine-Run
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1.	R ¹													
2.	R-T			470	485	495		520	460					200
3-A	R-T	475	475	485	485	485	375	390	250	185	135	95	80	
3-B	R-T	455	455	465	465	465		370	250	185	135	95	80	
3-C	R-T	440	440	450	450	450		360	250	185	135	95	80	
4-A	R	440	440	440	440	440		365	235	185	135	115	105	
4-D	R	420	420	420	420	420		355	235	185	135	115	105	
4-C	R-T	380	380	380	380	380					135	115	105	
5-A	R	425	425	425	425	425		365	235	185	135	115	105	
5-B	R	415	415	415	415	415		355	235	185	135	115	105	
6-A	R	400	400	400	400	400		345	235	185	135	115	105	
6-B	R	385	385	385	385	385		330	235	185	135	115	105	
7-A	R-T	370	350	360	360	360		310	235	185	135	115	105	270
7-B	R-T	360	340								135	115	105	270
7-C	R-T	350	330								135	115	105	270
8.	R		355								135	115	105	
9.	R-T		435											390

¹ Prices for this group same as group 2 R-T.

Group 14, Shelly Coal, 330 (8 only).

Group 15, Smithing Coal—Carloads, 500.

Group 16, Smithing Coal—Carloads, 650 (if sacked).

[F. R. Doc. 37-3595; Filed, December 10, 1937; 10:01 a. m.]

[Order No. 114]

AN ORDER MODIFYING ORDER NO. 101, AND REVISING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NUMBER 13 IN RESPECT TO RAILROAD LOCOMOTIVE FUEL

The National Bituminous Coal Commission having by its Order No. 101¹ established the Schedule of Minimum Prices for Coals of Code Members Produced within District Number 13 incorporated therein by reference, and the Commission having upon its own motion reviewed the Railroad Locomotive fuel prices described on pages number 28 and 41² of such Schedule of Minimum Prices for Coals of Code Members Produced within District Number 13, and the Commission having determined that to more effectively carry out the provisions of subsections (a) and (b) of Part II of Section 4 of the Act, minimum prices for said Railroad Locomotive fuel should be revised as hereinafter provided.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Schedule of Minimum Prices for Coals of Code Members Produced within District Number 13 be and the same hereby is revised and amended by striking therefrom at pages number 28 and 41 the following provisions as to minimum prices of Railroad Locomotive fuel (Alabama mines), at page number 28,³ and identical provisions for the Minimum prices of Railroad Locomotive fuel (Tennessee-Georgia mines), at page number 41,⁴ to-wit:

"All coal, except lump or double screened sizes, sold for Railroad Locomotive fuel shall take a minimum price of \$2.40 per net ton of 2,000 lbs. f. o. b. mines.

"Lump or any double screened coal ordered or sold for Locomotive fuel, shall take a minimum price of \$2.55 per net ton of 2,000 lbs. f. o. b. mines."

and inserting in lieu thereof the following provisions, to-wit:

"All coal, except lump or double screened sizes, sold for on-line Railroad Locomotive fuel shall take a minimum price of \$2.35 per net ton of 2,000 lbs. f. o. b. mines, and such coal sold for off-line Railroad Locomotive fuel shall take a minimum price of \$2.15 per net ton of 2,000 lbs. f. o. b. mines.

"Lump or any double screened coal ordered or sold for on-line Locomotive fuel shall take a minimum price of \$2.50 per net ton of 2,000 lbs. f. o. b. mines, and such coal ordered or sold for off-line Locomotive fuel shall take a minimum price of \$2.30 per net ton of 2,000 lbs. f. o. b. mines."

2. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of the Bituminous Coal Producers Boards for the Districts within Minimum Price Areas Number One, Two and Three, and to all Code Members within District Number 13; shall cause copies of this order to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 9th day of December, 1937.

[SEAL]

F. WITCHER McCULLOUGH, Secretary.

[F. R. Doc. 37-3596; Filed, December 10, 1937; 10:02 a. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Docket No. DI-134]

DECLARATION OF INTENTION OF THE WISCONSIN PUBLIC SERVICE CORPORATION

ORDERING REOPENING HEARING

The Commission having before it a petition filed on behalf of the State of Wisconsin on December 8, 1937, for reopening the hearing¹ on the declaration of intention filed May 27, 1937, by the Wisconsin Public Service Corporation of Milwaukee, Wisconsin, under Section 23 (b) of the Federal Power Act, for the reconstruction of an existing timber and rock-fill dam at Tomahawk, in Lincoln County, Wisconsin, and the construction of a new power house, substation and accessories, said dam to be in and across the Wisconsin River; It is ordered:

That the hearing on said declaration of intention and all matters pertinent thereto be reopened beginning at 10 a. m. on January 10, 1938, in the hearing room of the

[2 F. R. 2142 (DI).]

¹ 2 F. R. 3079 (DI).

² Pages 3085, 3087 in the FEDERAL REGISTER.

³ 2 F. R. 3085 (DI).

⁴ 2 F. R. 3087 (DI).

FEDERAL REGISTER, Saturday, December 11, 1937

Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., for the presentation of further evidence.

Adopted by the Commission on December 8, 1937.

[SEAL] LEON M. FUQUAY, Secretary.

[F. R. Doc. 37-3593; Filed, December 10, 1937; 9:34 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of December A. D. 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[Docket No. 2576]

IN THE MATTER OF PENNSYLVANIA WHISKEY DISTRIBUTING CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 13, 1937, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York City.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, Secretary.

[F. R. Doc. 37-3598; Filed, December 10, 1937; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December A. D. 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr., Charles H. March, Ewin L. Davis, Robert E. Freer.

[Docket No. 3220]

IN THE MATTER OF GUS STEPHENS, TRADING UNDER THE FIRM NAME AND STYLE OF TESTED SPECIALTIES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 16, 1937, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 37-3600; Filed, December 10, 1937; 10:15 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of December A. D. 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[Docket No. 1612]

IN THE MATTER OF J. A. STRANSKY AND L. G. STRANSKY, COPARTNERS, TRADING UNDER THE FIRM NAME AND STYLE OF J. A. STRANSKY MANUFACTURING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 21, 1937, at ten o'clock in the forenoon of that day (eastern standard time), in room 921, Federal Building, Detroit, Michigan.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 37-3597; Filed, December 10, 1937; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of December, A. D. 1937.

Commissioners: William A. Ayres, Chairman, Garland S. Ferguson, Jr., Charles H. March, Ewin L. Davis, Robert E. Freer.

[Docket No. 3093]

IN THE MATTER OF UNITED CORPORATION, A CORPORATION TRADING AS THE VIRGINIA PRODUCTS COMPANY, AND GEORGE M. CRUMP, INDIVIDUALLY AND AS PRESIDENT OF THE UNITED CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 17, 1937, at ten o'clock in the forenoon of that day (central standard time), in room 1123 New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 37-3599; Filed, December 10, 1937; 10:14 a. m.]

INTERSTATE COMMERCE COMMISSION.

[No. 3666]

IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

DECEMBER 4, 1937.

It appearing that by petitions received from interested parties certain new and amended regulations are proposed for our approval pursuant to section 233 of the Criminal Code (Transportation of Explosives Act), covering the packing, marking, loading, handling while in transit, and to determine whether the proposed changes are in accord with the best known means for securing safety in transit,—

The above entitled proceeding is assigned for hearing on January 6, 1938, at 10 o'clock a. m. (standard time), at the office of the Interstate Commerce Commission, Washington, D. C., before Commissioner McManamy and Special Examiner King.

Under provision of the Explosives Act, the Commission may utilize the services of the Bureau of Explosives, Association of American Railroads. In the interest of expediency and in order that the time of the Commission may be reasonably conserved, the Bureau of Explosives will be prepared to confer with interested shippers and others at the office of the Commission, Washington, D. C., at 10:00 a. m. (standard time) on January 5, 1938, when opportunity will be afforded all interested parties to discuss, and if possible agree upon, the amendments proposed.

Attached is copy of proposed new and amended regulations.¹ Further copies may be secured upon application to the Commission or the Bureau of Explosives, 30 Vesey Street, New York City.

By the Commission.

[SEAL]

W. P. BARTEL, Secretary.

[F. R. Doc. 37-3602; Filed, December 10, 1937; 12:14 p. m.]

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 3rd day of November A. D. 1937.

ORDER IN THE MATTER OF BLOCK-SIGNAL, TRAIN-CONTROL, AND TRAIN-ORDER STATISTICS

The order of September 20, 1929, In the Matter of Block-Signal, Train-Control, and Train-Order Statistics, being under consideration;

It is ordered, That said order of September 20, 1929, be, and it is hereby, amended to read as follows:

It is ordered, That the information called for below be furnished the Commission by all carriers by rail subject to the Interstate Commerce Act not later than January 15 of each year, namely:

A statement as of January 1, of each year, of railroad lines or parts of lines operated under the block system, interlocking and automatic train-stop, train-control, and cab-signal systems; also a statement of railroad lines and parts of lines on which orders regulating the movement of trains, commonly called "train orders", are transmitted by tele-

¹ The proposed new and amended regulations were a part of the original document filed with the Division of the Federal Register, The National Archives; copies available upon application to the Interstate Commerce Commission.

graph or telephone, as set forth in the instructions and report forms accompanying this order.¹

By the Commission, Division 3.

[SEAL]

W. P. BARTEL, Secretary.

[F. R. Doc. 37-3603; Filed, December 10, 1937; 12:14 p. m.]

[Ex Parte No. 125]

NOTICE REGARDING PULLMAN FARES AND CHARGES, 1937

DECEMBER 8, 1937.

The above-entitled proceeding is assigned for hearing on the dates and at the places hereinafter designated:

Washington, D. C., before Division 7, December 20, 1937, at the offices of the Commission.

NOTE.—It is expected that at this hearing only testimony in chief, on behalf of the applicant Pullman Company, will be received, without cross-examination at this time. Testimony in opposition should be reserved for later hearings; cross-examination of witnesses for the applicant Pullman Company will be held at Chicago, as hereinafter specified.

Los Angeles, Calif., before Commissioner Aitchison, January 11, 1938, at the offices of the Railway Commission of the State of California, State Building, North Broadway, near Front Street.

Portland, Oregon, before Commissioner Porter, January 15, 1938, at the Multnomah County Court House.

Salt Lake City, Utah, before Commissioners Aitchison and Porter, January 18, 1938, at Hotel Utah.

New Orleans, Louisiana, before Commissioner Caskie, January 21, 1938, at Hotel Jung.

Chicago, Illinois, before Division 7, January 24, 1938, at Hotel Morrison.

Washington, D. C., before Division 7, February 7, 1938, at the offices of the Commission.

All hearings scheduled to begin at 10:00 o'clock A. M. (Standard Time).

It is expected that oral argument before the Commission will follow the conclusion of testimony at once, or as soon as the oral argument in Docket Ex Parte No. 123,² *Fifteen Percent Case, 1937*, is concluded; briefs (or memoranda) conforming to the rules of practice may be filed within ten days after oral argument.

Attention is directed to the appendix annexed, containing instructions to parties who may appear herein.

By the Commission.

[SEAL]

W. P. BARTEL, Secretary.

APPENDIX

Exhibits.—In the preparation of exhibits Rule XIII of the rules of practice should be followed. A copy of that rule is attached. If possible, all documents submitted by a witness should be embraced in a single exhibit, with pages consecutively numbered, suitably bound together. In order to supply the State Commissioners, members of this Commission, and counsel in the proceeding, at least 150 copies of each exhibit should be prepared. So far as possible exhibits should be made self-explanatory, in order to minimize the amount of time required for explanation by oral testimony.

Prepared statements.—Witnesses who expect in the course of their testimony to read a written statement should have sufficient copies thereof for the use of counsel, the Commissioners on the bench, and the official reporter.

Verified statements (affidavits).—Evidence in the form of verified statements (affidavits) without personal appearance of the affiant as a witness will also be received by consent of counsel. As soon as practicable parties desiring to offer

¹ Instructions and report forms were a part of the original document filed with the Division of the Federal Register, The National Archives; copies available upon application to the Interstate Commerce Commission.

² 2 F. R. 2861(DI).

such statements shall send 10 copies to the Commission and 75 copies to Mr. L. M. Greenlaw, counsel for the applicant, Pullman Bldg., Chicago, Ill. Within 10 days from receipt, Mr. Greenlaw will advise the party submitting the statement and the Commission whether there is objection to the receipt of such statement in evidence. Copies must also be furnished to other interested parties who request them. Such statements should conform to Rule XIII of the rules of practice in respect of style, mimeographing, printing, etc. *They should be limited strictly to statements of fact and contain no argument, and if not so limited may be excluded.*—The Commission on its own motion or on objection may exclude a verified statement or any portion thereof which is not material or relevant to the questions presented in this proceeding, is obviously incompetent, or is argumentative in character. The consent to introduction of such a verified statement will make it unnecessary for the affiant to appear personally at the hearing.

Notice of intention to produce testimony.—Persons who desire to be heard at any of these hearings will facilitate the arrangements necessary by sending notice of their intention, the number of witnesses, and the approximate amount of time necessary for presentation of direct testimony.

Correspondence.—Correspondence relative to this matter should be addressed to the Commission at Washington, D. C., with a reference to the docket number, Ex Parte No. 125.

RULE XIII, RULES OF PRACTICE (IN PART)

(c) 1. *Tariffs; offer of matter contained in schedules.*—In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff schedules so on file.

2. *Reference in exhibits to tariff authority, routes, and distances.*—All exhibits showing rates, fares, charges, or other tariff provisions must, by appropriate Interstate Commerce Commission number reference, indicate the tariff authority therefor, and if distances are shown must also show the authority therefor and, by lines and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff schedule lawfully on file with the Commission, or are definitely ascertainable from a tariff schedule on file with the Commission showing rates prescribed by the Commission and based on short line distances, provided the exhibit makes specific reference to such tariff schedules as provided by this rule.

(d) *Copies of exhibits furnished opposing counsel.*—When exhibits of a documentary character are to be offered in evidence copies must be furnished to opposing counsel, unless the presiding Commissioner or Examiner otherwise directs. Whenever practicable, the parties should interchange copies of exhibits before or at the commencement of the hearing.

(e) *Size, form, and identification of exhibits; relevancy, materiality; not argumentative.*—All exhibits of a documentary character received in evidence are bound with the rest of the record in covers of uniform size. Whenever practicable they should be on one side only of sheets not exceeding 12½ inches from top to bottom by 22 inches in width, and a sufficient margin for binding, preferably 1½ inches, must be left blank on the left side of each sheet. They must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed or typewritten. If typewritten they must in other respects conform to the requirements of Rule XXI (b). Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered, and, if the exhibit consists of five or more sheets, the first sheet or title-page should be confined to a brief

statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained in the exhibit and should bear an identifying number, letter, or short title which will readily distinguish the exhibit from the other exhibits of the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Exhibits should be limited to statements of fact relevant and material to the issue, which can be shown in that form better than by oral testimony. They should not be argumentative.

[F. R. Doc. 37-3604; Filed, December 10, 1937; 12:14 p. m.]

RAILROAD RETIREMENT BOARD.

REGULATIONS GOVERNING ELECTIONS OF JOINT AND SURVIVOR ANNUITIES PURSUANT TO SECTION 4 OF THE RAILROAD RETIREMENT ACT OF 1937

The Railroad Retirement Act of 1937 provides in part as follows:

JOINT AND SURVIVOR ANNUITY

Sec. 4. An individual whose annuity shall not have begun to accrue may elect prior to January 1, 1938, or at least five years before the date on which his annuity begins to accrue, or upon furnishing proof of health satisfactory to the Board, to have the value of his annuity apply to the payment of a reduced annuity to him during life and an annuity after his death to his spouse during life equal to, or 75 per centum of, or 50 per centum of such reduced annuity. The amounts of the two annuities shall be such that their combined actuarial value as determined by the Board shall be the same as the actuarial value of the single-life annuity to which the individual would otherwise be entitled. Such election shall be irrevocable, except that it shall become inoperative if the individual or the spouse dies before the annuity begins to accrue or if the individual's marriage is dissolved or if the individual shall be granted an annuity under subdivision 3 of section 2 (a); Provided, however, That the individual may, if his marriage is dissolved before the date his annuity begins to accrue, or if his annuity under subdivision 3 of section 2 (a) ceases because of failure to make the required proof of disability, make a new election under the conditions stated in the first sentence of this subsection. The annuity of a spouse under this subsection shall begin to accrue on the first day of the calendar month in which the death of the individual occurs.

Pursuant to the authority conferred by such Section 4 and by Section 10 of the Railroad Retirement Act of 1937, the Railroad Retirement Board hereby prescribes the following rules and regulations to govern elections of joint and survivor annuities under the Railroad Retirement Act of 1937:

1. *Definition of election.*—An election of a joint and survivor annuity shall have been made when the individual entitled thereto (a) shall have made a choice to have the value of his annuity at accrual applied to the payment of a reduced annuity to him during life and an annuity after his death to his spouse during life; (b) shall have made a choice whether the value of his annuity at accrual shall be applied to the payment of an annuity to him during life so reduced as to provide for an annuity after his death to his spouse equal to such reduced annuity, or 75 per centum of such reduced annuity, or 50 per centum of such reduced annuity; (c) shall have made such choice with knowledge of the essence of the transaction; (d) and shall have communicated such choice in writing, clearly and unambiguously, to the Railroad Retirement Board; (e) all within the time provided in section 4 of the Railroad Retirement Act of 1937.

2. *Communication to the Railroad Retirement Board.*—Communication of the choice as hereinabove set forth may be made by signature in the appropriate space provided on Railroad Retirement Board Form AA-1 (as adopted February 4, 1936, or as thereafter from time to time revised), or by the due execution of Railroad Retirement Board Form AA-10, or by the execution of any legible writing clearly and unambiguously stating that the choice has been made; any such communication shall become effective as a communication upon its receipt by the Railroad Retirement Board. In the event that the communication takes a form

other than the execution of the AA-1 or the AA-10 form referred to above, the individual will be required, where possible, to verify the communication by the execution of Railroad Retirement Board Form AA-10.

3. Prima facie evidence of further elements of election.—Receipt of a communication as set forth above shall constitute *prima facie* evidence of the existence of all the elements of an election as defined in paragraph 1 hereof. Whenever such *prima facie* evidence becomes conclusive or is confirmed as hereinafter provided, an election shall have been made on the date on which the communication containing such *prima facie* evidence is received by the Railroad Retirement Board.

4. Confirmation of *prima facie* evidence.—Upon receipt of a communication as hereinbefore described, the Railroad Retirement Board will advise the individual of the nature of the transaction and will solicit his confirmation of the existence of all the elements of an election. Upon receipt of such confirmation by the Railroad Retirement Board, an election shall be conclusively established to have been made on the date the original communication as hereinabove described was received by the Railroad Retirement Board.

5. Prima facie evidence to become conclusive under certain circumstances.—The *prima facie* evidence of the existence of the elements of an election contained in a communication as hereinabove set forth shall become conclusive without confirmation in any of the following circumstances:

(a) If the individual dies before confirmation or rebuttal is received by the Railroad Retirement Board.

(b) If an intervening right of the spouse to a survivor annuity is asserted on the basis of such *prima facie* evidence. In any case in which the individual seeks to rebut the *prima facie* evidence and to claim an annuity less favorable to the spouse, he shall be required to furnish evidence that no intervening right is asserted by obtaining the signature of the spouse upon Railroad Retirement Board Form LD-1 attached to these regulations; except that no such evidence shall be required in the event that any election which might be asserted to have been made becomes inoperative by law through the award of an annuity under subdivision 3 of section 2 (a) of the Railroad Retirement Act of 1937.

(c) If no confirmation or rebuttal is received by the Railroad Retirement Board within thirty days from the date on which a solicitation of confirmation is mailed to the individual at the address furnished by him, except upon a conclusive showing of special and unusual circumstances depriving the individual of an opportunity to indicate rebuttal within such thirty days.

6. Rebuttal of *prima facie* evidence.—In order to rebut the *prima facie* evidence of the existence of all the elements of an election contained in a communication as hereinabove described, the individual will be required to furnish evidence convincing to the Railroad Retirement Board that some element or elements of an election, as defined in paragraph 1 of these regulations, did not exist. If the elements of an election were present, a mere change of judgment upon reconsideration is not sufficient.

7. Further communication after rebuttal of *prima facie* evidence.—If *prima facie* evidence of the existence of all the elements of an election contained in a communication as hereinabove described is rebutted, any further communication in writing from the individual received by the Railroad Retirement Board expressing clearly and unambiguously a choice as set forth in paragraph 1 of these regulations shall constitute conclusive evidence of the existence of all the elements of an election, and such communication, in order to be effective, shall be received within the limitations of time set forth in section 4 of the Railroad Retirement Act of 1937.

8. Application of regulations to communications received prior to promulgation of regulations.—These regulations shall apply to all elections under the Railroad Retirement Act of 1937, irrespective of whether communications with respect thereto are received by the Railroad Retirement Board before or after the promulgation of these regulations; except that in the case of any individual from whom such communication has been received before the date of promulgation of these regulations and who has not theretofore been advised of the nature of the transaction, and to whom no annuity has been awarded, advice of the nature of the transaction and solicitation of confirmation will be transmitted as promptly as possible after the promulgation of these regulations, and confirmation or rebuttal shall thereafter proceed as provided in paragraphs 4, 5 and 6 of these regulations; and except that in the case of individuals who have theretofore been advised of the nature of the transaction and individuals to whom annuities have theretofore been awarded, the original communication shall be conclusive evidence of the existence of all the elements of an election unless rebuttal evidence is received within thirty days from the promulgation of these regulations.

By direction of the Board.

[SEAL]

R. B. BRONSON, Secretary.

DECEMBER 10, 1937.

[Form LD-1]

To the RAILROAD RETIREMENT BOARD,
Washington, D. C.

Re: Application of _____

RRB No. A _____

GENTLEMEN:

My husband (wife) has heretofore communicated to the Railroad Retirement Board an indication of the election of a joint and survivor annuity under Option _____, by which indication, if accepted as evidencing an election, my husband (wife) would receive (if and when certified) during life a *reduced* instead of a *full* annuity, and I would receive after his (her) death, during my life (if I survive), an annuity

equal to _____

75% of _____

(strike out inapplicable lines)

50% of _____

(strike out inapplicable lines)

the annuity that (s)he would receive during life.

At the time such communication was made, my husband (wife) and I had no understanding of the foregoing, so that the election was never completed and was never made.

I therefore, request that the Railroad Retirement Board should not give any effect to the indication of an election of a joint and survivor annuity previously communicated. I fully understand that the effect of the execution of this instrument by me is such that I will not be entitled to receive, and that I will not receive, any annuity whatsoever after the death of my husband (wife) unless a different election is hereafter perfected, and I do so intend; and, as consideration of the Board's disregarding the communication previously received, I release and forever discharge the Railroad Retirement Board for any and all obligations to me arising therefrom.

(Signature) _____

NOTE.—This signature should be made in the presence of two disinterested witnesses, who can write their names and addresses, and should further be acknowledged before a Notary Public.

Witnesses:

(Signature) _____

(Address) _____

(Signature) _____

(Address) _____

Sworn to and subscribed before me this _____ day of _____

19_____
[Notarial Seal]
Notary Public in and for _____ County, State of _____

